



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,788	04/09/2004	Dominique Ligeois	Q81016	8716
23373 7590 12/20/2007 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			EXAMINER ONEILL, KARIE AMBER	
			ART UNIT 1795	PAPER NUMBER
			MAIL DATE 12/20/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/820,788

Applicant(s)

LIGEOIS ET AL.

Examiner

Karie O'Neill

Art Unit

1795

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 December 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-11 and 13.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

**MARK RUTHKOSKY
PRIMARY EXAMINER**

 12-18-07

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's principle arguments are:

- (a) Applicant submits a definition of the term "concertina" found in the Webster's dictionary. "A concertina is a small musical instrument of the accordion type, with bellows and keys." Thus, it is the Applicant's opinion that "folded in a concertina manner" means that the lateral bands are folded in a zigzag or accordion like manner." The specification of the instant application indicates at page 5, lines 3-5 that "the folding of the lateral bands is carried out by repeated flattening of said bands by small successive passes of a hammer over the surface."
- (b) Applicant argues that neither Cailley et al. nor Ura discloses lateral bands folded in a concertina manner. Indeed, Cailley et al. and Ura merely disclose lateral bands folded in a substantially perpendicular direction.
- (c) Applicant argues that the solution of the invention is to fold the lateral bands of the strips of the same polarity in a sort of "concertina" in order to form a continuous plane base approximately perpendicular to the initial direction of the strips. The base thus formed constitutes a metal barrier allowing laser-welding of a plane connection. The metal barrier prevents the weld from falling inside the electrochemical bundle. Further, such a folding provides a "cushion" of material (copper or aluminum) which is thick enough so that the laser beam does not go through the thickness of the cushion during welding.

In response to Applicant's arguments, please consider the following comments:

- (a) The dictionary definition of "concertina" is not persuasive when used in combination with the description given from the specification on page 5, lines 3-5. The prior art reference, Cailley et al. (US 3,761,314), shows in Figure 4, electrodes are bent at an approximately perpendicular angle and form a base plane that lies against the surface of the cover (12) and bottom (17) of the casing. It is possible for the perpendicular shape of the electrodes to be formed from the repeated flattening of said electrode bands by small successive passes of hammer over the surface, therefore, the description from the specification is not persuasive to overcome the prior art. Cailley et al. still reads upon the claimed subject matter when given it's broadest, most reasonable interpretation.
- (b) See arguments in (a) above and the Final Office Action dated September 11, 2007 for rejection by Cailley et al. and Ura. Also, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).
- (c) The rejections found in the Final Office Action dated September 11, 2007, in paragraph 7, describe folding the lateral bands to form a perpendicular plane base perpendicular to the initial direction of the strips, the base plane constituting a metal barrier allowing laser-welding of a plane connection. The description of the solution of the invention "the metal barrier prevents the weld from falling inside the electrochemical bundle. Further, such a folding provides a "cushion" of material (copper or aluminum) which is thick enough so that the laser beam does not go through the thickness of the cushion during welding", is not part of the claims and therefore is not considered. Limitations appearing in the specification but not recited in the claim are not read into the claim. See MPEP 2106.

